THE HON'BLE SRI JUSTICE J. CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE P. SWAROOP REDDY

W.A.No. 629 of 2005

Dated: 26-04-2007

Between:
K. Ramachandra Rao

...Appellant/Petitioner

and

The A.P. State Coop. Bank Ltd.,
Represented by its Managing Director,
Troop Bazar, Hyderabad.

...Respondent/Respondent

JC & PSR, JJ.

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W.A.No. 629 of 2005

Judgment

(Per P. Swaroop Reddy, J.)

This appeal is filed against the order of the learned single Judge in W.P.No. 7747 of 2002. The petitioner is the appellant. *For the sake of convenience the parties herein would be referred to as they are arrayed before the learned single Judge.*

2. The case of the petitioner is that he joined service in October, 1975 as an Assistant Cashier in A.P. Cooperative Central Bank Ltd., Hyderabad. He was promoted to the rank of Manager by 1982, for some time he worked as Manager of Taranaka

Branch; a charge-sheet was served on him covering certain allegations pertaining to the period from September, 1996 to February, 1997; charges included indiscriminate and irregular sanctioning of loans of consumer durables and opening of accounts in the names of M/s. Sri Sai Enterprises and M/s. Anjana Electronics, two non-existing establishments and granting substantial loans to these firms. The petitioner filed his explanation along with statement of defence denying the allegations, in which, he submitted that out of 447 accounts, he has successfully closed 301 accounts, by recovering substantial amount. Still an Enquiry Officer was appointed, who submitted the report on 18.3.1998 without conducting proper enquiry. The report found the petitioner guilty. Basing on the said report show-cause notice dated:20-5-2000 was issued to the petitioner calling for his explanation for the proposed punishment and the petitioner submitted his explanation on 5.6.2000; wherein, *inter alia* he has submitted that the Enquiry Officer was biased in assessing the charges and without properly considering the explanation of the petitioner, the Disciplinary Authority passed order dated:28.2.2002 dismissing the petitioner from service. As against the same, the petitioner filed regular appeal before the General Body on 18.3.2002, which was also dismissed on 27.3.2002 without proper hearing and considering the relevant material. It is contended that as the petitioner was reverted to the post of Staff Assistant on 7.3.2001, the authority which has passed the dismissal order is not competent and even the appellate authority is not empowered to proceed with the matter. That as per Regulation 52, the competent authority is the Board to impose the penalty of dismissal and as per Regulation 53 (iv) the General Body of the

Bank is the appellate authority, but these two regulations were violated and the petitioner was dismissed from service. The authority which passed the original dismissal order had decided the appeal and as such the entire proceedings are vitiated.

3. The learned single Judge dismissed the writ petition holding that the material reveals that the petitioner indulged in indiscriminate and irregular sanctioning of loans; merely because he recovered certain amounts from the loanees, that would not absolve the petitioner from the liability; that the preliminary authority and the appellate authority have considered in detail the allegations with regard to each charge and found the petitioner guilty; that the High Court sitting under Article 226 of the Constitution of India, cannot reassess and re-appreciate the decision of the appellate authority; there is nothing to show that the findings arrived at by the authorities are perverse; that the enquiry as contemplated under section 51 of the A.P. Cooperative Societies Act, 1964 is only administrative and it would not have any binding force etc., and as against the same the present appeal is filed.

4. Here it is pertinent to note that even according to the case of the petitioner, it is not as if, he has not committed any irregularities. He has not denied that current account in the name of M/s Sri Sai Enterprises a non-existing firm was opened and substantial amount of loan was granted to this firm. Even according to him, out of 477 accounts, 301 accounts were closed. It is not disputed by him that substantial amounts were left un-recovered. The charges against him include exceeding the limit of Rs.50.00 Lakhs, which resulted in the outstanding of Rs.135.39 Lakhs with regard to the consumer durables, which were also

sanctioned in violation of other norms of the bank. The petitioner has sanctioned loans on the basis of unsigned and undated Xerox copy of invoices; he failed to ensure execution of documents like Demand Promissory Note, Hypothecation deed and surety bonds etc; he allowed loanees to stand as surety for the other loanees and vice-versa, thereby making the liability of the individual loanees and sureties multiple beyond their solvency, which resulted in over dues. Further he was also involved in a case of passing two forged cheques for Rs.10.00 Lakhs each; no doubt this allegation is not the subject matter of this enquiry.

5. Thus, as far as certain irregularities committed by the petitioner are concerned, there is no dispute. As found by the learned single Judge, the fact that certain loans irregularly sanctioned by the petitioner could be subsequently recovered, would not regularize the action of the petitioner. The grievance of the petitioner that in an enquiry under section 51 of the A.P. Cooperative Societies Act no action could be taken against him, is of no consequence, as it was only an administrative action.

6. As far as the contention of the petitioner that by the time of disciplinary action, he was demoted to the post of Staff Assistant and as such the appellate authority was different, is also of no consequence, as the enquiry was held with regard to the omissions and commissions made by him during the tenure in which he was holding the post of Manager of Taranaka Branch. Further more he, himself, approached the Board.

7. The petitioner has taken the plea of *bias* for the first time in the writ petition and no such plea was taken earlier, further more it is not disputed, as admitted by the petitioner, himself, that certain irregularities are definitely there; as such he cannot

contend that a biased report was submitted against him.

8. The last contention of the petitioner that the punishment imposed is disproportionate also cannot be accepted in view of the nature of the allegations levelled against the petitioner, which included substantial financial irregularities.

9. In view of all these circumstances, we see no ground to interfere with the findings recorded by the learned single judge.

10. In the result the writ appeal is dismissed. No costs.

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J. CHELAMESWAR, J.

26-04-2007
BVS

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P. SWRAOOP REDDY, J.